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EXAMINER

BROWN, TIMOTHY M

ART UNIT

PAPER NUMBER

3625

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/476,674

Applicant(s)

AARNIO, ARI

Examiner

Tim Brown

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Final Office Action is in response to applicants' amendment submitted September 11, 2002. The amendments to claims 1-12 have been entered. New claims 13-21 have been entered.

#### *Claim Objections*

2. The objections made to claims 7-9 are withdrawn in response to applicants' amendment.

#### *Claim Rejections - 35 USC § 103*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claims 1, 4-10, 12 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (Lambert, P. "FCC puts satellite DAB plan up for comment," Broadcasting, Vol. 122, no. 43 (October 19, 1992) p. 28) in view of Foladare et al. (US 5,819,160) ("Foladare") and Official Notice.**

Regarding claims 1 and 6, Lambert teaches 1 a method of providing an on-line subscription service to a user of a mobile terminal, comprising the steps of:

subscribing, by the user, to the on-line subscription service by interacting with a subscription server (page 1, paras. 5 and 6); and

transmitting via a wireless communication network a digitally formatted product to the mobile terminal (page 1, paras. 1,5, 6 and 9).

Lambert does not expressly teach using a wide area network to subscribe for the on-line subscription service. However, Foladare teaches permitting a user to subscribe

to a service for providing music over a wireless network wherein the user enters his account information over the Internet (col. 5, lines 39-51). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert to include teach using a wide area network to subscribe for the on-line subscription service in order to permit users to quickly and conveniently subscribe for music service.

Neither Lambert nor Foladare expressly teach transmitting to the mobile terminal via a wireless communication network at predetermined time intervals and without user action, an offer to download a digitally formatted product. However, the examiner takes Official Notice that presenting viewers with offers for the purchase of television programming, on an automatic and continuous basis, is old and well known in the art. For example, "Pay-Per-View" advertisements for events such as movies and sporting events have long been presented to cable viewers. Lambert suggests combining its method with this well known step in that Lambert discloses providing wireless music services to listeners on a "pay-per-listen" basis (page 1, para. 5). ~~Moreover, Lambert~~ discloses transmitting *program information* to listeners of satellite radio (page 1, para. 8). Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include the teachings of transmitting to the mobile terminal via a wireless communication network at predetermined time intervals and without user action, an offer to download a digitally formatted product. This combination would provide a means for soliciting user for the purchase of paid programming on a unit basis.

Lambert does not expressly teach transmitting from the mobile terminal via the wireless communication network a response indicating whether the user wishes to accept the offer to download the digitally formatted product. However, Foladare teaches enabling a user to select songs and/or playlists through the use of a digital radio that communicates with a central server via wireless digital communication (col. 2, lines 1-38). Labert suggests combining its teachings with Foladare in that Lambert discloses providing wireless music services to listeners on a "pay-per-listen" basis (page 1, para. 5). Providing users with music on a "pay-per-listen" basis requires receiving user input. Since the users disclosed in Lambert are in close proximity to a digital radio, and Foladare teaches receiving user communications via a digital radio, it would have been obvious to one of ordinary skill in the art, to modify Lambert, to include transmitting from the mobile terminal via the wireless communication network a response indicating whether the user wishes to accept the offer to download the digitally formatted product.

Neither Lambert nor Foladare expressly teach transmitting the digitally formatted product to the mobile terminal in response to the user's acceptance. However, the examiner takes Official notice that providing a user with a program in response to the user's acceptance of an offer for the purchase of the program is old and well known in the art. For example, users have long been provided with "Pay-Per-View" programming in response to the users' acceptance of an advertised offer. Lambert suggests modifying its teachings to include transmitting the digitally formatted product to the mobile terminal in response to the user's acceptance in that Lambert discloses providing users with radio programming on a "pay-per-listen" basis (page 1, para. 5).

Art Unit: 3625

Offering programming on a "pay-per-listen" basis requires the user to select a specific item for purchase. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foldare to include transmitting the digitally formatted product to the mobile terminal in response to the user's acceptance.

Regarding claim 5, Lambert teaches a step wherein if the user accepts the offer to download the digitally formatted product, the user is charged for the price of the digitally formatted product transmitted to the mobile terminal (page 1, para. 5).

Regarding claims 16 and 17, Lambert and Foldare teach all the limitations discussed under claims 1 and 6 above. Lambert does not expressly teach a step wherein the step of subscribing by the user comprises transmitting user-specific information provided by the user to the subscription server which stores the user-specific information, wherein the user-specific information comprises at least one of the capabilities of said mobile terminal, the preferences of the user, and other information related to the user. However, Lambert teaches having a user subscribe to a wireless music service wherein the user's identification and music selections are transmitted to a central server (col. 2, lines 39-54; and col. 5, lines 39-67). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert to include a step wherein the step of subscribing by the user comprises transmitting user-specific information provided by the user to the subscription server which stores the user-specific information, wherein the user-specific information comprises at least one of the capabilities of said mobile terminal, the preferences of the

user, and other information related to the user. This modification would provide a means for billing the user for any selections made in connection with the "pay-per-listen" feature of Lambert.

Regarding claim 4, Lambert and Foldare teach all the limitations discussed under claims 16 and 17 above. Neither Lambert nor Foladare teach the step of transmitting the user-specific information wherein the user-specific information comprises financial information concerning how the user pays for the digitally formatted product. However, the examiner takes Official Notice that transmitting financial information for the purchase of paid programming, such as in the context of "Pay-Per-View" programming is old and well known in the art. Lambert suggests combining its teachings with this well known step in that Lambert discloses providing users with music on a "pay-per-listen" basis (page 1, para. 5). Providing users with music on a "pay-per-listen" basis requires the user to submit payment information in order to receive the music selection. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include transmitting the user-specific information wherein the user-specific information comprises financial information concerning how the user pays for the digitally formatted product.

Further regarding claim 4, neither Lambert nor Foladare teach a step wherein transmitting the offer to download the digitally formatted product comprises transmitting information related to the digitally formatted product, wherein the information related to the digitally formatted product comprises a price of the digitally formatted product. However, the examiner takes Official Notice that transmitting a price in connection with

Art Unit: 3625

an offer to receive paid programming, such as "Pay-Per-View", is old and well known in the art. Lambert discloses that music may be transmitted to users based on a "pay-per-listen" pricing scheme (page 1, para. 5). Therefore, at the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include a step wherein transmitting the offer to download the digitally formatted product comprises transmitting information related to the digitally formatted product, wherein the information related to the digitally formatted product comprises a price of the digitally formatted product.

Regarding claims 18 and 20, Lambert and Foladare teach all the limitations discussed under claims 16 and 17 above. Lambert does not expressly teach a step wherein the offer to download the digitally formatted product is sent to the subscribed user if the digitally formatted product corresponds to the user-specific information stored at the subscription server. Foladare teaches the steps of receiving user-specific information during a subscription process and transmitting a digital product to a user via a digital radio (col. 2, lines 39-54; and col. 39-67). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert to include a step wherein the offer to download the digitally formatted product is sent to the subscribed user if the digitally formatted product corresponds to the user-specific information stored at the subscription server in order to provide the user with a digital product that matches the user's preference.



Regarding claim 8, Lambert teaches a system wherein the digitally formatted product comprises at least one of an electronic book, audio material, or video material (page 1, paras. 1, 5, 6, 8 and 9).

Regarding claim 7, Lambert and Foladare teach all the limitations discussed under claim 18 above. Neither Lambert nor Foladare expressly teach a system wherein the user-specific comprises information relating to how the user is to pay for the digitally formatted product. However, the examiner takes Official Notice that establishing an online account with a vendor wherein the user's payment information is stored on the merchant database is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare, to include a means for storing the user-specific comprising information relating to how the user is to pay for the digitally formatted product. This would enable the system to automatically process the payment for the selected digitally formatted product. This would be particularly advantageous to the Lambert system in that the user would not be distracted from driving while providing his payment information.

Further regarding claim 7, neither Lambert nor Foladare teach a system wherein the means for transmitting the offer to download the digitally formatted product also transmits information related to the digitally formatted product with the offer and the information related to the digitally formatted product comprises a price. However, the examiner takes Official Notice that transmitting an offer to purchase a program, including the program's price, is old and well known in the art. For example, "Pay-Per-

Art Unit: 3625

View” programs, such as sporting events and movies, have long been offered to cable television subscribers. Indeed, Lambert suggests implementing a means for transmitting an offer to download a digitally formatted product, including price, in that Lambert discloses providing users with “pay-per-listen” programming (page 1, para. 5). Therefore, at the time of the applicants’ invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert to include a system wherein the means for transmitting the offer to download the digitally formatted product also transmits information related to the digitally formatted product with the offer and the information related to the digitally formatted product comprises a price.

Further regarding claim 7, Lambert inherently teaches a means for charging the user the price for the digitally formatted product when downloaded by the user. As discussed above, Lambert discloses providing users with “pay-per-listen” programming (page 1, para. 5). Offering specific programs to users on a “pay-per-listen” basis requires the implementation of a means for charging users for their selection(s). Therefore, Lambert inherently teaches charging the user the price for the digitally formatted product when downloaded by the user.

Regarding claim 9, Lambert and Foladare teach all the limitations discussed under claims 1 and 6 above. Lambert does not expressly teach a system wherein the wide area network is the Internet. However, Foladare teaches establishing a user account with a service for providing music wherein the user communicates with a central server via the Internet (col. 2, lines 31-35). At the time of the applicants’ invention, it would have been obvious to one of ordinary skill in the art, to modify

Lambert, to include a system wherein the wide area network is the Internet. This would enable a user to manage his account from any location having Internet access.

Moreover, the use of the Internet would enable users to navigate a website thereby allowing them to view extensive account information such as balances, product offerings and announcements.

Regarding claim 19, Lambert and Foladare teach all the limitations discussed under claims 1 and 6 above. Neither Lambert nor Foladare expressly teach a system wherein the mobile terminal comprises one of a palm-sized computer, a Personal Digital Assist and (PDA) and a wireless phone. However, the examiner takes Official Notice that configuring these with wireless access to a wide area network is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include a system wherein the mobile terminal comprises one of a palm-sized computer, a Personal Digital Assist and (PDA) and a wireless phone in order to provide a mobile terminal with enhanced portability.

Regarding claim 10, Lambert and Foladare teach all the limitations discussed under claims 1 and 6 above. Neither Lambert nor Foladare expressly teach transmitting to the mobile terminal at least a portion of the digitally formatted product, wherein the user can access a preview portion of the at least a portion of the digitally formatted product. However, the examiner takes Official Notice that displaying a portion of a "Pay-Per-View" program over a cable television network is old and well known in the art. Lambert suggests implementing this step in that Lambert discloses providing users with

programming on a "pay-per-listen" basis (page 1, para. 5). Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include transmitting to the mobile terminal at least a portion of the digitally formatted product, wherein the user can access a preview portion of the at least a portion of the digitally formatted product.

Further regarding claim 10, neither Lambert nor Foladare expressly teach a step wherein if the transmitted at least a portion of the digitally formatted product does not comprise the entire digitally formatted product and the user indicates a desire to purchase the digitally formatted product, transmitting the remaining portion of the digitally formatted product to the mobile terminal. However, the examiner takes Official Notice that providing an entire portion of a "Pay-Per-View" program, to a viewer of a cable network, in response to an acceptance of an offer by the viewer is old and well known in the art. Lambert suggests implementing this step in that Lambert discloses providing users with programming on a "pay-per-listen" basis (page 1, para. 5).

Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include a step wherein if the transmitted at least a portion of the digitally formatted product does not comprise the entire digitally formatted product and the user indicates a desire to purchase the digitally formatted product, transmitting the remaining portion of the digitally formatted product to the mobile terminal.

Regarding claim 12, Lambert and Foladare teach all the limitations discussed under claim all the limitations discussed under claim 10 above. Neither Lambert nor

Foldare expressly teach the step of transmitting from the mobile terminal back to the subscription server the at least a portion of the digitally formatted product when the user response indicates a desire not to purchase the product. However, the examiner takes Official Notice that transmitting returning downloadable product when a user indicates a desire not to purchase it is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include the step of transmitting from the mobile terminal back to the subscription server the at least a portion of the digitally formatted product when the user response indicates a desire not to purchase the product. The benefit of this modification would be to provide the user with digitally formatted product at the instant he desires to purchase them while simultaneously enabling the method to avoid overloading the user's mobile terminal with stored digitally formatted products that were not accepted.

Regarding claim 15, Lambert and Foladare teach all the limitations discussed under claim 10 above. Lambert does not expressly teach a step wherein subscribing by the user comprises transmitting user-specific information provided by the user to the subscription server which stores the user-specific information, wherein the user-specific information comprises at least one of the capabilities of said mobile terminal, the preferences of the user, and other information related to the user. However, Lambert teaches having a user subscribe to a wireless music service wherein the user's identification and music selections are transmitted to and stored on a central server (col. 2, lines 39-54; and col. 5, lines 39-67). At the time of the applicants' invention, it would

Art Unit: 3625

have been obvious to one of ordinary skill in the art, to modify Lambert to include a step wherein subscribing by the user comprises transmitting user-specific information provided by the user to the subscription server which stores the user-specific information, wherein the user-specific information comprises at least one of the capabilities of said mobile terminal, the preferences of the user, and other information related to the user. This modification would provide a means for billing the user for any selections made in connection with the "pay-per-listen" feature of Lambert. Moreover, this would permit Lambert to provide "pay-per-listen" programming according to the user's disclosed preferences.

Regarding claim 21, Lambert and Foladare teach all the limitations discussed under claim 15 above. Lambert does not expressly teach a step wherein the offer to download the digitally formatted product is sent to the subscribed user if the digitally formatted product corresponds to the user-specific information stored at the subscription server. However, Foladare teaches the steps of receiving user-specific information during a subscription process and transmitting a digital product to a user via a digital radio (col. 2, lines 39-54; and col. 39-67). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert to include a step wherein the offer to download the digitally formatted product is sent to the subscribed user if the digitally formatted product corresponds to the user-specific information stored at the subscription server in order to provide the user with a digital product that matches the user's declared preference.

**5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (Lambert, P. "FCC puts satellite DAB plan up for comment," Broadcasting, Vol. 122, no. 43 (October 19, 1992) p. 28) in view of Foladare et al. (US 5,819,160) ("Foladare") Official Notice and Eller et al. (US 5,889,860) ("Eller").**

Regarding claim 11, Lambert and Foladare teach all the limitations discussed under claim 10 above. Neither Lambert nor Foladare expressly teach the step wherein the transmitted at least a portion of the digitally formatted product is the entire digitally formatted product, and the step of transmitting the offer and the at least a portion of the digitally formatted product comprises the step of transmitting a gateway lock to the mobile terminal, wherein, although the user can access the preview portion of the digitally formatted product, the gateway lock prevents the user from accessing the remaining portion of the digitally formatted product. However, Eller teaches distributing a data to users wherein the data includes encrypted music and a password which functions as a decryption key for accessing the encrypted music data (Abstract; and col. 6, lines 32-60). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare, to include the step of transmitting the entire digitally formatted product as the offer wherein the user may access a preview portion of the digitally-formatted product and wherein a gateway lock prevents the user from accessing the remaining portion of the digitally-formatted product. This addition would provide the user with the digitally formatted at the instant he decides to purchase it based on his reaction to the offer.

Regarding claim 13, Lambert and Foladare teach all the limitations discussed under claim 11 above. Neither Lambert nor Foladare expressly teach the step of transmitting a decoding message for unlocking the gateway lock to the mobile terminal so that the user may access the entire digitally formatted product if the user desires to purchase the digitally formatted product. However, Eller teaches transmitting data to users wherein the data includes digitally formatted music and a password for accessing an encrypted portion of the digitally formatted music wherein the password is issued in response to receiving purchase information from the user (Abstract; and col. 6, lines 32-60). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare, to include the step of transmitting a decoding message for unlocking the gateway lock to the mobile terminal so that the user may access the entire digitally formatted product if the user desires to purchase the digitally formatted product. This addition would provide the user with instantaneous access to the digitally formatted in that user would not be required to wait for the product to download after he has accepted the offer.

**6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (Lambert, P. "FCC puts satellite DAB plan up for comment," Broadcasting, Vol. 122, no. 43 (October 19, 1992) p. 28) in view of Foladare et al. (US 5,819,160) ("Foladare") Official Notice and Frey et al. (US 6,369,908) ("Frey").**

Regarding claim 2, Lambert and Foladare teach all the limitations discussed under claims 1 and 6 above. Neither Lambert nor Foladare expressly teach the step of determining whether the mobile terminal is capable of presenting the downloaded



Art Unit: 3625

digitally formatted product, and if so, the downloaded digitally formatted product is presented on the mobile terminal, and if not, the downloaded digitally formatted product is transferred from the mobile terminal to a player capable of presenting the downloaded digitally formatted product. However, Frey teaches a photography kiosk operable to transmit a photographic image wherein the kiosk is capable of performing a self-diagnostic that is subsequently transmitted to an off-site location (Abstract; col. 5, lines 22-34). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert and Foladare to include determining whether the mobile terminal is capable of presenting the downloaded digitally formatted product, and if so, the downloaded digitally formatted product is presented on the mobile terminal, and if not, the downloaded digitally formatted product is transferred from the mobile terminal to a player capable of presenting the downloaded digitally formatted product in order to enable the user to utilize the digitally-formatted product via a alternate system in the event the mobile system is incapable of presenting it.

Regarding claim 3, Lambert teaches the step wherein the digitally formatted product is transferred using wireless devices (page 1, paras. 1, 5, 6 and 9).

**7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (Lambert, P. "FCC puts satellite DAB plan up for comment," Broadcasting, Vol. 122, no. 43 (October 19, 1992) p. 28) in view of Foladare et al. (US 5,819,160) ("Foladare") Official Notice, Eller et al. (US 5,889,860) ("Eller") and Kazmierczak et al. (US 5,615,264) ("Kazmierczak").**

Lambert, Foladare and Eller teach all the limitations discussed under claim 13 above. Neither Lambert, Foldare nor Eller teach transmitting an access code to the mobile terminal, wherein the access code unlocks the remaining portion of the digitally formatted product, wherein the user uses the access code to indicate that the user wishes to purchase the digitally formatted product by unlocking the remaining portion of the product; and wherein the step of transmitting from the mobile terminal to the subscription server a response indicating whether the user wishes to purchase the digitally formatted product comprises the step of transmitting a message to the subscription server notifying the subscription server either i) that the user has, or ii) that the user has not, unlocked the remaining portion of the digitally formatted product using the access code. However, Kazmierczak teaches a system for metering the use or encrypted data wherein a user is charged for the amount of data actually decrypted (col. 1, lines 17-31 and 56-64). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Lambert, Foldare and Eller to include the teachings of Kazmierczak in order to provide a means for determining the digitally-formatted products which the user has selected thereby permitting the user to be charged according to his actual use of the digitally-formatted products.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. Lett (US 5,539,822) System and method for subscriber interactivity in a television system
  - b. Duhault et al. (US 6,118,493) Method and apparatus for selecting a channel from a multiple channel display
  - c. Kikinis (US 6,205,485) Simulcast web page delivery using a 3D user interface system
  - d. Noreen et al. (US 5,303,393) Integrated radio satellite response system and method
  - e. Robbins (US 5,038,402) Apparatus and method for providing digital audio in the FM broadcast band
  - f. Polash (WO 99/18518) Internet-based musical indexing system for radio
  - g. "GRUNDIG: DAB – Just another gimmick or a real benefit to the (in-car) consumer?," M2 Presswire (July 17, 1997)
  - h. "Technology Giants Join Forces with New Jersey Firms on Internet Telephony," Star Ledger (March 12, 1999)
  - i. "Japanese Copyright Groups to Seek Higher Fees on DAB," Audio Week, Vol. 5, no. 37 (September 27, 1993)
  - j. "Widespread DAB Acceptance 'Probable,' Public Radio Survey Says," Audio Week, Vol. 5, no. 22 (June 7, 1993)

- k. Scully, V. "The five vying for digital audio radio service," Broadcasting & Cable, Vol. 123, no. 16 (April 19, 1993) p. 54
- l. Hogan, M. "Satellite Radio Start-Ups Seek Subscribers," Multichannel News, Vol. 20, no. 26 (June 21, 1999) p. 50
- m. Doward, J. "Media: Radio's DAB hands tune in for a revolution: Digital audio broadcasting is riding on the crest of a wave to a new wireless medium, says Jamie Doward," Observer (August 3, 1997) p. 5
- n. Farhi, P. "Music from the Spheres; Two Local Companies Go Head to head to Develop Pay Satellite Radio," The Washington Post, (May 19, 1997)

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (703) 305-1912. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Tim Brown  
Examiner  
Art Unit 3625

TB  
November 23, 2002

  
JEFFREY A. SMITH  
PRIMARY EXAMINER